

While water is not subject to Retailers' Occupation Tax when sold by a water company through a series of continuous mains to customers, (see 86 Ill. Adm. Code 130.2055, enclosed) gross receipts from retail sales "over-the-counter" of water are subject to tax. (This is a GIL).

September 11, 2000

Dear Xxxxx:

This letter is in response to your letter dated July 24, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We are requesting a private letter ruling concerning shaved ice used in cooling salad bar products at our BUSINESS stores. We believe that this transaction is exempt from ROT & SOT.

BUSINESS operates under license number #####. COMPANY is the parent company of BUSINESS.

BUSINESS makes ice in a central 'commissary' from water. This ice is then shipped to our stores for internal use. We use this shaved ice to cool and display salad bar products. We do not normally resell this product to customers.

The business for the transaction is to make product in our stores more salable.

There are no contracts, agreements, instruments or other documents relevant to this request.

The tax period at issue is Jan 1, 1998 forward. There is no audit or litigation pending with the department.

To the best of our knowledge, the department has not ruled on this issue, and we have not submitted the issue before.

We believe that any tax due is paid on the purchase of water from the utility company and that products produced for internal use are not subject to any further sales or use tax.

We understand that this ice would be taxable to BUSINESS if purchased from an outside vendor for internal use.

There are no trade secrets to delete from the publicly disseminated version of this letter.

For your general information, we are enclosing a copy of 86 Ill. Adm. Code 130.310 regarding the appropriate tax rates for food, medicine and medical appliances. As you can see, the regulation provides that food which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food which has been prepared for immediate consumption), and prescription and non-prescription medicines, drugs, and various medical appliances, are taxed at the rate of 1%. (The state rate is 1%, plus applicable local taxes.) Food is defined as any solid, liquid, powder or item intended by the seller primarily for human internal consumption, whether simple, compound or mixed, including foods such as condiments, spices, seasonings, vitamins, bottled water and ice. See Section 130.310(b)(1).

Please note that while water is not subject to Retailers' Occupation Tax when sold by a water company through a series of continuous mains to customers, (see 86 Ill. Adm. Code 130.2055, enclosed) gross receipts from retail sales of water are subject to tax.

We assume the water you use to make ice is supplied by a water company through a series of continuous mains. If that is the case, the water purchased is not subject to sales tax. When it is made into ice and distributed to your own stores for internal use, no sales tax liability is incurred. If you sell the ice to consumers, such sales will be subject to tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote  
Associate Counsel

MPM:msk  
Enc.